

**Fairbanks Gold Mining, Inc
True North Project Road**

**Right-of-way
ADL 416471**

Proposed Decision

I. Action Requested

Fairbanks Gold Mining, Inc. (FGMI) applied to the Division of Mining, Land and Water (DMLW), Department of Natural Resources (DNR) for a 100-foot wide private, non-exclusive right-of-way from the True North Project to the Steese Highway, and from the Steese Highway to the Ft. Knox Millsite Permit boundary. A general vicinity map is in Attachment 1.

Two alternative routes, South Pedro and North Pedro, have been applied for; however, the North Pedro alternative is FGMI's preferred route. The North Pedro alternative is shown on the map in Attachment 2.

The "South Pedro alternative" was initially applied for on March 28, 2000. This route generally follows existing roads from the True North Project boundary around the south side of Pedro Dome to the Fort Knox Millsite Permit Boundary. This route involved new construction to reduce the existing road grades and to reduce impacts on local residents. A new intersection will be constructed where the road crosses the Steese Highway. This route crosses lands under the jurisdiction and management of the DMLW, Mental Health Trust Office, and private land.

The "North Pedro alternative" was added to the application on May 26, 2000. This alternative requires new road construction from within the True North Project boundary around the north side of Pedro Dome to the existing Pedro Dome Road (Omnibus Act Road). Once this route connects with the existing Pedro Dome Road, this alternative follows the same route as the "South Pedro alternative" to Fort Knox Millsite Permit Boundary. This route crosses lands under the jurisdiction and management of the DMLW and the Mental Health Trust Office.

This decision proposes to:

- Establish the North Pedro alternative as a private non-exclusive right-of-way, subject to valid, existing rights, on state owned and managed land. The right-of-way will be issued to FGMI. State owned and managed lands consist of School Trust land and other state land under the jurisdiction and management authority of DMLW.
- On lands owned by a third party where the state manages a state-owned easement either under RS 2477 or the Omnibus Act, the DMLW will authorize the construction, use and maintenance of the existing right-of-way consistent with 11 AAC 51.100. This includes Mental Health Trust Lands and any land owned by a third party.
- DMLW will enter into an agreement with FGMI for the construction, use, and maintenance of the True North Project Road to transport ore.

II. Scope of Review and Finding

The scope of this proposed decision is limited to determining whether the proposed use is a good use of state land or a state-owned interest in land and whether it provides the greatest economic benefit to the state and the development of its resources. In making this determination, DMLW evaluates the reasonably foreseeable, significant effects of the construction and use of the True North Project Road has on state land, school land, and the RS 2477/Omnibus routes. The DMLW's decision evaluates the application with respect to material issues and facts, available land management information, public and agency comment, and DNR responsibilities under AS 19, AS 38.04, AS 38.05, and specifically AS 38.05.850. This decision discusses the potential effects in general terms that may occur with construction and operation of the right-of-way and the mitigation measures to be imposed as terms of the right-of-way permit to reduce or eliminate possible adverse effects. Under AS 38.05.801 and consistent with the Alaska Mental Health Enabling Act, the Alaska Mental Health Trust Land Office (TLO) is processing a separate permit for that portion of the right-of-way on Mental Health Trust lands.

III. Authority

The authority to issue a private non-exclusive right-of way resides in AS 38.05.850. DMLW issues a private non-exclusive right-of-way to a third party that is available for use by the public; construction and maintenance of the right-of-way are the responsibility of the third party. Due to recent legislative changes, right-of-way permits issued by the DNR under the authority of AS 38.05.850 are exempt from the best interest finding requirements of AS 38.05.035(e). The amendment to AS 38.05.850, requires public notice before issuing the right-of-way if the director determines, by evaluation of the nature and duration of the intended use, that the right-of-way is not functionally revocable. This applies only to the proposed right-of-way on state land under the jurisdiction and authority of the DMLW.

The authority for management of RS 2477 rights-of-way is AS 19.30.400. DMLW regulation, 11 AAC 51.100, states a permit may be required under 11 AAC 96.010 for certain land use actions on RS 2477 rights-of-way. Since the proposed North Pedro Dome alternative includes construction on RS 2477 roads, the Proposed Decision will address this request.

The Omnibus Quitclaim transferred title for Omnibus Act Road to the State of Alaska. These roads are considered part of the highway system and managed by the Department of Transportation and Public Facilities (DOT/PF) under AS 19. The DMLW will authorize the use of the Omnibus Act road involved in the True North Project with the concurrence of DOT/PF.

IV. Administrative Record

This right-of-way request was applied for under AS 38.05.850. Right-of-way application file (ADL 416471), the Tanana Basin Area Plan (TBAP), and the RS 2477 files (RST 644, 1930, and 1932) comprise the administrative record for this request. The True North Project Description, Reclamation Plan, Socioeconomic Baseline Report, Right-of-way application, and other supporting documents, submitted under AS 38.05.850, have been reviewed and are part of public record.

V. General Information

A. Legal Description and Title

The following table summarizes the land title, classification and road status for the North Pedro alternative. The access route crosses state mining claims in Sections 33 and 34. FGMI has an interest in this all these claims. See Attachment 3 for the map depicting land ownership.

LEGAL DESCRIPTION/TITLE/CLASSIFICATION/ROAD STATUS

NORTH PEDRO ALTERNATIVE

	<u>GRANT</u>	<u>STATUS</u>	<u>CLASSIFICATION</u>	<u>ROAD STATUS</u>	<u>LENGTH(ACRES)</u>
<i>T 3 N, R 1 E, FM</i>					
Sec 33 SE1/4	GS-1104	Patented 50-66- 0026	Minerals/Public Recreation TBAP 1-J-2	New Construction	860 ft (2.0ac)
Sec 33 SE1/4	GS-1104	Patented 50-66- 0026	Minerals/Public Recreation TBAP 1-J-2	RST 1932 ¹	700 ft (1.6 ac)
Sec 34 S1/2	GS-1104	Patented 50-66- 0026	Minerals/Public Recreation TBAP 1-J-2	New Construction	6310 ft (14.5 ac)
Sec 35 S1/2S1/2NE1/4	Mental Health Trust			FAS 6723	500 ft (1.1 ac)
Sec 36 W1/2, SE1/4	School - 152	Patented 1227152	Minerals/Public Recreation TBAP 1-J-2	New Construction	5240 ft (12.0 ac)
Sec 36 W1/2	School - 152	Patented 1227152	Minerals/Public Recreation TBAP 1-J-2	FAS 6723 ²	1790 ft (4.1 ac)
<i>T 2 N, R 2 E, FM</i>					
Sec. 6 N1/2N1/2	Mental Health Trust Land			RST 644 ³	700 ft (1.6 ac)
Sec. 5 W1/2, SW1/4SE1/4	Mental Health Trust Land			RST 644	5100 ft (11.7 ac)
Sec. 8 NE1/4	Mental Health Trust Land			RST 644	2700 ft (6.2 ac)

¹ RST 1932: Little Eldorado Creek Road RS 2477

² FAS 6723: Pedro Dome Road (Omnibus Road)

³ RST 644: Cleary Summit to Gilmore Dome Trail RS 2477

B. Tanana Basin Area Plan and FNSB Zoning

The TBAP was prepared under AS 38.04.065. The TBAP plan is the result of a substantial public and agency participation process and evaluation of use of state land, recognizing present and potential land use in providing for use and management of State land. The proposed right-of-way is located within the Tanana Basin Area Plan (TBAP) in Subregion 1-Fairbanks North Star Borough, Management Unit 1J2-Cleary Summit-Pedro. The primary surface use designation is Minerals/Public Recreation. The secondary surface use is Forestry. The proposed right-of-way is consistent with the designated uses in the TBAP.

The Fairbanks North Star Borough has zoned this area General Use. The FNSB Community Planning Department has indicated that this road is not subject to the FNSB platting ordinance Title 17.

C. Background

General location: The proposed True North Project is located on the northwest flank of Pedro Dome approximately 25 miles northeast of Fairbanks. The project area is presently accessed from the Mile 20 on the Steese Highway by 6.5 miles of existing gravel road on the south side of Pedro Dome.

Area to be developed: FGMI has applied for an authorization to develop the Hindenberg and East Pit of the True North Project. Exploration is presently ongoing to identify additional resources in the area.

Operating period: The proposed mine will operate 24 hours a day, 365 days a year. Mining is projected to begin in the third quarter of 2000 and continue for approximately three years on the Hindenberg and East pits. FGMI exploration crews are currently drilling to further define mineralization in the area. Exploration activities are anticipated to continue during the mine life to locate possible areas for expansion and associated mine development.

Ore haulage: FGMI proposes to haul ore 24 hours a day, 365 days a year to the Fort Knox Mill using conventional highway tractor-trailer trucks. Each load will be 60 to 100 tons. Approximately 10,000 tons of ore per day will be hauled to the Fort Knox mine site. This equates to 100 to 170 truckloads to the mill daily.

D. Traditional Use Finding

A traditional use finding is not required for the proposed right-of-way as it is within the Fairbanks North Star Borough.

VI. Public Participation, Notices and Hearings

Agency input will be received for this right-of-way through the representatives on the project team. The Corps of Engineers (COE) provided notice of FGMI's Application for Department of the Army Permit (Section 404) for the True North Project on May 3, 2000. The Alaska Departments of Fish and Game, Environmental Conservation,

Transportation and Public Facilities, and Natural Resources have provided input to FGMI and the COE in writing and during project team meetings. Two public meetings have been held to receive public comments on this project. These meetings were held on April 18, 2000 and May 22, 2000 in Fairbanks. The public has also attended and provided comments at project team meetings. The agencies have incorporated these comments into the current proposal.

The state agencies involved with this project will conduct a coordinated public review in July and August 2000. Display notices will be published in the Fairbanks Daily News Miner to notify the public of the public comment period, the Fairbanks meeting/hearing, and the deadline for public comments. The Proposed Decision will be available on the DNR Division of Mining, Land and Water web site at www.dnr.state.ak.us/mine_wat. Additionally, notice of this action will be provided to the School Trust Land litigants and the Mental Health Trust Land Office.

The recent amendment to AS 38.05.850 requires public notice of the right-of-way if it is not functionally revocable. Even though this proposed right-of-way has a fixed term and can be revoked at will by DNR, it is considered not functionally revocable for the purposes of this statute because of the construction and use of the roadway. Therefore, it is being included in the public notice for the True North Project as it is an integral part of the larger project.

Any comments received in writing are in the public record. The May 22, 2000 meeting was transcribed and the transcription is included in the record. Many of the concerns raised to date are listed and addressed in Section IX.

Agency and public comments received during the public notice comment period will be addressed in the Final Decision.

VII. Transportation Alternatives

A. Ore Transfer Alternatives

FGMI, according to the Project Description, considered three alternatives to transfer the ore from True North to the Fort Knox mine site. Two trucking options and a conveyor system were evaluated. The trucking alternative was the preferred.

A conveyor system would have to be 12 miles long and would require a bridge across the Steese Highway. Given the terrain and distance and operating environment, there would be multiple transfer points, attendant motor drive units, bag houses for fugitive dust emissions and a greater potential for loss of material. Conveyor systems are very noisy and have high maintenance costs. For these reasons, and from practical experience, FGMI does not consider a conveyor system a viable alternative.

Off-highway trucks can haul a larger volume of material and decrease the number of truck trips; however, this would require the road to be closed to other vehicular traffic for safety considerations. In addition, the off-highway trucks would have to cross the Steese Highway and would likely have a greater noise impact on nearby residences. For these reasons, the use of off-highway trucks is not a viable alternative.

Over-the-highway trucks are the preferred alternative. By carefully specifying the truck/trailer design, it is possible to increase the payloads over conventional highway trucks. By increasing the payloads, FGMI can reduce the volume of truck traffic. Safety concerns are reduced over off-highway trucks and the roads can be used by other traffic. Conventional over-the-highway trucks are designed and built to reduce impacts due to noise. FGMI is researching different muffler and lighting components to further reduce the noise and light concerns raised by area residents.

B. Road Alternatives

FGMI has reviewed 8 different access road alternatives in an effort to reduce concerns raised by the public while selecting a safe and economic route. Some of these alternatives have been developed with public input. They are:

- Alternative #1: Barnes Creek/Fish Creek/South Pedro Dome Route – 9.2 miles;
- Alternative #2: Barnes Creek/Fish Creek/Bypass #1/South Pedro Dome Route – 9.2 miles;
- Alternative #3: Barnes Creek/Fish Creek/Bypass #2/South Pedro Dome Route – 10.6 miles;
- Alternative #4: Cleary #1 – 13.1 miles;
- Alternative #5: Barnes Creek/Fish Creek/Bypass #2/North Pedro Dome Route – 9.8 miles;
- Alternative #6: South Skoogy – 11.0 miles;
- Alternative #7: North Skoogy – 12.9 miles; and,
- Alternative #8: Cleary #2 – 13.1 miles.

The access road alternatives are shown on the map in Attachment 4.

FGMI's preferred route is Alternative #5, the North Pedro Dome route. The North Pedro route is somewhat shorter and places the road on the north side of Pedro Dome. This route provides an additional buffer for residences in the Skoogy Gulch area and below. The preferred route, in the vicinity of the Skiland homes is approximately 200 feet lower in elevation and 1100 feet away from the nearest home. FGMI has indicated that whenever a vehicle on the road in the direction of Skiland residences, the grade is downhill so the vehicle lights will be directed away from the residences. FGMI is researching vehicle light alternatives in an effort to further reduce impacts to local residents. To further reduce impacts to these residences, all FGMI traffic will use the proposed route from the Steese Highway to the Fort Knox mine.

The other alternatives are not preferred for the following reasons:

Alternative #1: This alternative follows the existing Fish Creek and Pedro Dome Roads, and uses the existing Steese Highway/Fish Creek intersection. Truck traffic on this route would go through the existing Cleary Summit Subdivision and be closer to the Skiland Subdivision residences than in the preferred alternative. Based upon information provided by FGMI, this route is 40 feet lower in elevation and approximately 330 feet away from the closest Skiland area residence. Light and noise is a problem with this alternative due to its proximity with the local residences. The existing Steese Highway

intersection sight distances are not sufficient and pose a significant safety hazard. Based upon a 55 MPH speed, a sight distance of 450 feet is required. Obtaining this required sight distance at this location is unlikely.

Alternative #2: This route is basically the same as Alternative #1, except a new intersection would be constructed approximately 792 feet southwest of the existing intersection and the road is slightly downhill from the existing Fish Creek road near the Skiland residences. This new intersection would meet the DOT/PF site distance requirements. This route is 80 feet lower in elevation and 520 feet away from the nearest residence. Light and noise is also a problem with this alternative and while this Steese Highway intersection is better than the one in Alternative #1, better sight distances can be obtained further down the road.

Alternative #3: The South Pedro Dome route was not considered as a viable alternative because of the existing road does not meet FGMI's road design grades and the extensive road construction required. While the extent of road construction may be less than the North Pedro route, this route would be in the view shed of everyone along the Steese Highway south of Pedro Dome. This route is also slightly more expensive to construct than the North Pedro Dome route.

Alternatives #4, #6, and #7: These routes are primarily new construction on Mental Health Trust Lands. At most, there is approximately one mile of DNR managed land involved in each route, with the exception of the North Skoogy alternative which uses a portion of the North Pedro route. Alternatives #4 and #7 also use portions of the Fish Creek/Barnes Creek roads. These routes are longer and more expensive than Alternative #3 or Alternative #5. In addition, all of these routes would require extensive engineering and construction to address the expansive aufeis problems in the vicinity of the proposed Steese Highway crossing. All the alternatives have long downhill and uphill grades for trucks headed in both directions. This increases the safety risks for drivers hauling heavy loads. One advantage of these routes is that all truck traffic for FGMI would be off the Steese Highway above the Pedro Monument and onto a mine road, and there would be little noise or light impact to the local residents of Cleary Summit or Skiland. However, this potential impact would be shifted to residents living near the Pedro Monument. These alternatives, based upon preliminary engineering, may still impact residences along the Steese Highway.

Alternative #8: This alternative was added in July to the list of possible routes. Cleary Summit and Skiland residents have recommended this route to FGMI. This route crosses approximately 1.75 miles of state owned and managed land. This route has basically the same length and cost as Alternative #4. While there is probably less aufeis along this route than Alternative #4, aufeis will probably still be a problem near the Steese Highway. This alternative has long downhill and uphill grades for trucks headed in both directions. This increases the safety risks for drivers and increases the truck cycle time for FGMI. One advantage of this route is that all truck traffic for FGMI would be off the Steese Highway before the Pedro Monument and onto a mine road, and there would be little noise or light impact to the local residents of Cleary Summit or Skiland. However, this potential impact would be shifted to residents living near the Pedro Monument. This alternative, based upon preliminary engineering, would be located in the drainages adjacent to local residents along the Steese Highway.

VIII. Authorization Alternatives

A. State-Owned Land

For state land owned and managed by the DMLW, the DMLW has the option of issuing a public right-of-way authorization or a private non-exclusive right-of-way.

The DMLW could authorize the True North Project access as a *public right-of-way* issued to the DMLW. The outcome would be one continuous public right-of-way on state land owned and managed by DMLW as there are existing public rights-of-way that overlap portions of the routes. This is not consistent with the TLO portion of the route. The TLO plans to issue a right-of-way to FGMI.

A *private non-exclusive right-of-way* is the preferred authorization. The private non-exclusive right-of-way will be subject to valid, existing rights, open to public use, and FGMI will be responsible for maintenance, liability, and rehabilitation of the road. The private non-exclusive right-of-way will be co-located with the existing rights-of-way and will not affect any uses presently occurring on the existing roads. FGMI's selection of over-the-highway trucks is consistent with the public's concurrent use of this right-of-way.

Where existing RS 2477 and Omnibus rights-of-way exist, regardless of the underlying land ownership, the DMLW has management authority of the right-of-way. DNR regulations vest management authority for use of any RS 2477 right-of-way that is not on the Alaska Highway System, with the Commissioner of DNR. Regulation 11 AAC 51.100 states that "certain land use actions on RS 2477 rights-of-way, including road construction, may require a permit under 11 AAC 96.010." A permit is required because the equipment typically used in construction is not generally allowed to operate on state managed lands without an authorization.

All of the RS 2477s and the Omnibus Act road rights-of-way, for this project, are 100 feet wide. Any road construction beyond the 100-foot width must be authorized by the underlying landowner.

Where the RS 2477s or Omnibus Act roads are on state owned and managed lands, the DMLW proposes to authorize the True North Project road by private non-exclusive right-of-way as previously mentioned. Where the RS 2477s or Omnibus Act roads are located on land not under the jurisdiction and management of DMLW, the DMLW proposes to authorize FGMI's use by land use permit. Any adjacent landowners will be notified if the route crosses their property.

B. RS 2477/Omnibus Act Rights-of-Way

The RS 2477s along the North Pedro route cross DMLW and TLO managed lands. The TLO, in their draft Best Interest Decision:

does not dispute either the existence of or the designated width (100 ft.) of the RS 2477 rights-of-way known as Gilmore Dome Trail (RST 644), the

Pedro Dome Road (RST 1930), and the Little Eldorado Creek Road (RST 1932) asserted by the State of Alaska. The decision of the TLO to accept the asserted RS 2477 easements was based on the benefits of the project and not the facts associated with the asserted easement, which would have required unreasonable TLO resources to research and analyze. The TLO reserves judgement as to the existence of any other RS 2477 rights-of-way asserted to exist across Trust land by the State of Alaska.

Three RS 2477 routes coincide with portions of the North Pedro route. These routes were reported to the Alaska Legislature in 1999 for inclusion in AS 19.30.400(d). They are as follows:

RST 644 - Cleary Summit to Gilmore Dome Trail: Portions of this route were upgraded during the initial construction of the Fort Knox mine. FGMI will continue to use this section under the preferred alternative. This route is on Mental Health Trust Lands. FGMI proposes to construct a new intersection in Section 6 where the bypass enters this road, reconstruct the Fish Creek/Barnes Creek intersection, and upgrade the Barnes Creek Road to the Fort Knox Millsite Permit boundary in Section 8.

On May 17, 1999, a Public Right-of-way, ADL 416290, was issued to the DMLW for the Gilmore/Cleary Summit Trail. This right-of-way is co-located with RST 644. The following statements are in the issued permit:

- It is understood and agreed that, as a condition to the granting of the right-of-way, the subject land shall be used for no purpose other than location, construction, operation and maintenance of the right-of-way for a public trail access route...; and,
- In the event that this right-of-way shall in any manner conflict with or overlap a previously granted right-of-way, the use of this right-of-way shall occur in such a manner as to not interfere with the peaceful use and enjoyment of the previously issued right-of-way.

In the above statement, "previously granted right-of-way" refers to RST 644, the RS 2477 for the Cleary Summit to Gilmore Dome Trail. The RS 2477 has the dominant right.

The TLO is aware of FGMI's intent to upgrade this RS 2477 as the DMLW is coordinating the adjudication of this request with the TLO. Existing uses on the RS 2477 will not be restricted except at the Fort Knox upland mining lease boundary.

RST 1932 – Little Eldorado Creek Road: FGMI proposes to use a short portion of this historic trail system in its existing location within the True North Project boundary. The RS 2477 would be upgraded in Section 33.

If the South Pedro alternative were used, this RS 2477 route would be upgraded in some areas and there would be new construction to make the grades more favorable for mine traffic. In the South Pedro alternative, the RS 2477 crosses Mental Health Trust Land, DNR managed land, and two patented federal mining claims. Where the proposed

South Pedro Dome alternative crosses patented federal mining claims, FGMI would be required to secure for the DMLW a public right-of-way from the owners for the road across their property. If this alternative is used, the DNR may, in a separate action, vacate any portions of the historic RS 2477 outside of the 100-foot wide right-of-way if the route is no longer required for access.

The TLO is aware of FGMI's intent to upgrade this RS 2477 as the DMLW is coordinating the adjudication of this request with the TLO. Use on the RS 2477 will not be restricted except at the project boundary.

RST 1930 – Pedro Dome Road: This RS 2477 applies mainly to the South Pedro route. DOT/PF upgraded a portion of this road in 1984. FGMI proposes to use and possibly upgrade portions of this historic route and construct new road in other areas to make the grades more favorable for mine traffic. This RST is entirely on Mental Health Trust Land as it relates to this project. For a short stretch, this RS 2477 is co-located with the Pedro Dome Omnibus Road.

The TLO is aware of FGMI's intent to upgrade this RS 2477 as the DMLW is coordinating the adjudication of this request with the TLO. Use on the RS 2477 will not be restricted on this portion of the road.

Omnibus Act Road – FAS 6723 – Pedro Dome Road: This route is different from the Pedro Dome Road RS 2477 route mentioned above. This route is the existing road from the Steese Highway to the top of Pedro Dome. The State of Alaska obtained title to this road under the Omnibus Act. DNR recognizes a 100-foot wide public right-of-way on this road. The Pedro Dome Road crosses state owned and managed land, including School Land, and TLO managed land.

Approximately one-quarter mile of the Pedro Dome Road will be upgraded on Mental Health Trust Land. On this section, DMLW proposes to issue a land use permit to FGMI to construct or upgrade within the existing 100-foot public right-of-way. Any road construction beyond the 100-foot width must be authorized by the TLO.

Approximately one-half mile of the existing Pedro Dome Road will be upgraded on School Trust Land. This portion is discussed below as School Trust lands are managed by the DMLW.

C. School Trust Land

Section 36 is School Land under the jurisdiction and management authority of the DMLW. There has been litigation filed against the State regarding the management of School Trust lands. DNR Department Order 143, School Trust Lands Litigation, requires an approved action to be for the full, fair market value at the highest and best use of the parcel. If the action does not meet this criterion, the Commissioner must determine if the action may proceed.

FGMI proposes to upgrade the Omnibus Act Road and also proposes to construct new road on School Trust lands under the preferred alternative. Since the DMLW manages School Trust Land, the DMLW proposes to issue a 100-foot wide private non-exclusive

right-of-way to FGMI. As previously mentioned, the private non-exclusive right-of-way will be subject to valid, existing rights (meaning the Omnibus Act Road).

IX. Reasonably, Foreseeable, Significant Effects

A. Potential Mineral Developments

Ryan Lode, Amanita, Steamboat/West ridge, and the Gil Extension are some of the known potential sites from which off-site ore could be brought to Ft. Knox, via portions of the True North Project Road, for processing in the reasonably foreseeable future. Another potential site is located on the Gilmore Satellite Tracking Station. Discussions with federal agencies concerning future acquisition by the State of a portion of PLO 3708 as amended by PLO 6709, currently withdrawn for the Gilmore Satellite Tracking Station have been held, but no decision will be provided the State until an evaluation is completed. A map showing the locations of the above sites is provided as Attachment 1.

Each proposal to transport off-site ore to Ft. Knox for processing must be independently evaluated at the time that a development proposal is submitted and the permitting process for the mine site is initiated. It is reasonably foreseeable at this time that potential impacts of those projects as currently proposed or projected may include additional traffic, noise, and lights, as well as safety and other concerns that may be associated with the proposed trucking routes for any off-site ores transported. These issues, as they arise in the context of the True North Project, are being considered in this decision. The other potential mining sites will be reviewed and analyzed for such impacts and concerns when concrete development proposals are submitted to initiate the permitting processes.

In designating the primary and secondary uses of state land for the area, TBAP considered both mining and non-mining land use and management options. The proposed road, for the purposes requested by FGMI, is consistent with the designated uses derived from the planning process

B. Safety of the proposed Steese Highway intersection

The DMLW has no management authority regarding the construction of the intersection or its location in terms of sight distances. The land on both sides of the Steese Highway is School Trust Land managed by the DMLW. Safety concerns have been raised regarding fog and icy road conditions. FGMI has indicated that they will not transport ore if fog and icy roads make transporting ore dangerous to its drivers or the public. FGMI has proposed installing warning lights on the Steese Highway. This is a DOT/PF issue that will be addressed by DOT during their review of the driveway permit applications for the new intersection.

C. Road dust and its effect on the Steese Highway and adjacent properties

Concerns have been that the amount of truck traffic on the access roads will create a dust problem on adjacent properties and will reduce traction on the Steese Highway. At present, FGMI uses calcium chloride on the Fort Knox roads and proposes to continue

this practice for the True North Project Road. FGMI will be required to address dust abatement as part of the Transportation Plan required by special stipulation.

D. Hours of operation and number of trucks trips:

FGMI's current plan of operation call for the True North Project to use the road 24 hours per day year round, excluding holidays. This equals 100 to 170 tractor-trailer loads to the mill per day one way for the True North Project. The vehicle frequency for the True North Project is one truck would pass a given point, in one direction or the other, approximately every 4 minutes. If the Ryan Lode prospect is brought online, another 68 loads of ore per day will traverse the True North Project Road on their way to the mill. This would add 1 additional truck past a given point, in one direction or the other, approximately every 10.5 minutes. FGMI will be required to address the volume of traffic and hours of operation as part of the Transportation Plan. The plan shall address reasonable and practical alternatives for mitigating concerns.

E. Light and noise concerns

FGMI is researching different lighting and muffler options for over-the-highway haul trucks and is continuing to gather information regarding noise levels and the possible impact on nearby residences. Local residents are concerned about the incremental increase in noise levels at their homes that could be attributed to the True North Project. Residents have stated they can presently hear traffic driving on the Steese Highway from their homes. FGMI will be required to address light and noise mitigation as part of the Transportation Plan. The plan shall address the best reasonable, practical alternatives to reduce light and noise concerns associated with the over-the-highway trucks.

F. Businesses along the route may be adversely affected by the project

Four area residents operate tourism and recreation related businesses in the area. These businesses have co-existed with the Fort Knox and the associated traffic since the mine's development. Additionally, some of the businesses have been started since Fort Knox began operating. The owners are concerned that an increase in traffic, light, noise and dust will have an adverse affect on their tourism businesses. FGMI has commissioned additional studies and is investigating light and muffler options for its vehicles. The cumulative effect of Fort Knox, the Poker Flats Research Rocket Range, Gilmore Creek Tracking Station and True North incrementally add to the existing light glow that would affect these businesses. FGMI will be required to address these items in the Transportation Plan.

G. General safety of public using of the road

The True North Project Road may be temporarily closed for public safety purposes. This could include road construction, maintenance, or for movement of large equipment. Otherwise, the road will be open to the public; the FGMI vehicle traffic is compatible with the current uses on the existing public rights-of-way. FGMI will be required to address signage, traffic patterns, and road closures as part of the Transportation Plan.

H. Spill response

FGMI currently purchase its hazardous materials FOB the Fort Knox Security Gate. Any hazardous materials being delivered to Fort Knox are the responsibility of the trucking company until they are accepted by FGMI. This would include deliveries to the True North Project. FGMI has trained hazardous response people working at the mine and FGMI would most likely be the initial response for any spill along the True North Project Roads.

I. Road construction and upgrading existing roads

Numerous access routes presently exist in the area, however, they are not suitable for the intended use. FGMI has reviewed numerous routes and has applied for the North Pedro route based upon design criteria and reduced impact to local residents. Existing routes would have been a favorable solution, however, they do not meet the design and engineering requirements for transporting large amounts of ore, and have other impacts associated with them.

J. The construction of a high quality road may lead to additional land development in the area

New road construction could open up new areas for development. This could include land sales for residential or commercial uses, and land leases. Development could occur on DMLW or TLO managed lands. Presently, no new developments are planned on state land.

K. Construction of the proposed road may impact the viewshed of local residents

This may also include the public travelling the Steese Highway or others living north and south of Cleary Summit/Pedro Dome along the Steese Highway. As necessary, FGMI will be required to stabilize and revegetate cuts and fills to reduce erosion. Revegetated cuts and fills may help reduce the impact of the road in the viewshed. FGMI will be required to prepare a Revegetation Plan to stabilize and revegetate cuts and fills to reduce erosion and the impact of the road in the viewshed.

X. Authorization Terms and Conditions

A. Road Design/Signage/Traffic Patterns

An independent engineering firm is designing the proposed roads. The haul road design parameters are generally a 100-foot wide right-of-way, 30 foot running surface with a maximum grade of 6-8 percent. The road will typically have 2:1 back slopes and 2.5:1 fill slopes; however, 25:1 vertical rock slopes may occur in some areas. Since the road will be a private non-exclusive right-of-way open to the public, FGMI will be required to submit, to the DMLW, the final road design, stamped by an engineer registered in Alaska. The DMLW will have the Department of Transportation review the road design to ensure it is appropriate for public use.

FGMI will be required to enter into a separate agreement regarding the maintenance, insurance, liability, indemnity and operation of the road across DMLW managed lands. The TLO will also be a party to this agreement. This document, Agreement Among the Alaska Department of Natural Resources, Mental Health Trust Land Office and Fairbanks Gold Mining, Inc. For Construction, Upgrade, Use and Maintenance of the True North Project Road (Use and Maintenance Agreement), will remain in effect for as long as FGMI requires use of the road for mining operations and reclamation. The Use and Maintenance Agreement will be reviewed periodically to evaluate continued need and amendments. A draft of the proposed Use and Maintenance Agreement is in Attachment 5.

FGMI will be allowed to install road signs that alert the public using the right-of-way of the large truck traffic present on the roads, the speed limits, and other necessary information. The DMLW will approval the sign content prior to installation. Traffic patterns along the route may be changed between True North and Fort Knox at some existing intersections to accommodate mine traffic. The required Transportation Plan will address these items.

FGMI currently plans to construct a 30-foot wide road that will be surfaced with D-1. The same as the existing Fort Knox access roads. Calcium chloride would be used for dust control. Other road surfacing alternatives are being investigated by FGMI and could be implemented in the future, with agency approval. The Transportation Plan will address dust abatement.

B. State Material/Gravel Usage

FGMI will be required to pay for any state material/gravel removed from state land during the construction of the road on state land. Material may be used in place or on other state land. See Fees Section X.H.

C. Reclamation

FGMI will be required, by special stipulation, to provide a Reclamation and Maintenance Plan within 120 days of completion of reclamation on the True North Project, or upon a request to transfer the right-of-way to another entity. Reclamation may include removal of the road or transfer of the road to another party. The plan will address maintenance of the road, if the road is to remain a public right-of-way.

D. DOT/PF Driveway Permit

A DOT/PF Driveway Permit must be issued to authorize the proposed Steese Highway intersection. The design and location must be within the design limits for the Steese Highway. FGMI has proposed to install flashing lights on the Steese Highway to alert highway travelers of the approaching intersection. FGMI is also considering truck activated warning so a flashing light will occur only when an ore haul truck is approaching the intersection. The DMLW authorizations for the access roads do not include any of the improvements within the Steese Highway right-of-way.

E. Environmental Risk Assessment

The proposed activity involves the construction, operation and maintenance of the True North access road. No substances or fuels will be stored on the right-of-way. Fuel trucks will haul fuel and lubricants for the equipment, vehicle maintenance related fluids, ammonia nitrate, and heating oil to the True North project. The equipment driving the road will contain fuel, oil and hydraulic fluids. The roads east of the Steese Highway will continue to have the same kind of materials transported over them. FGMI has an emergency response plan for hazardous material, excluding petroleum products. Any hazardous materials delivered to FGMI are FOB the Fort Knox gate, therefore, the trucking companies are responsible for any spills enroute. FGMI will normally assist with any hazardous spills as initial response. Hazardous materials transported between Fort Knox and True North are the responsibility of FGMI. The environmental risk for the right-of-way is minimal.

F. Survey/As-built

FGMI has surveyed the existing roads to determine their location and width prior to any construction or upgrading. FGMI will be required to provide the DMLW with an as-built survey of the right-of-way based on DMLW survey instructions. The as-built survey must also show the pre-construction road location.

G. Performance Guaranty/Indemnification/Insurance

Performance Guaranty: The DMLW will, prior to the Final Decision, determine the appropriate performance guaranty to protect the state's interests during FGMI's construction and use of the roads.

Indemnification: FGMI assumes all responsibility, risk, and liability for all activities conducted by FGMI on the public rights-of-way, including construction, maintenance, and environmental and hazardous substances risks and liabilities that occur during their use of the right-of-way. FGMI shall defend, indemnify, and hold harmless the state and its employees from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by or on behalf of FGMI on the rights-of-way, including acts or omissions of independent contractors, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the state or anyone acting on the state's behalf. Within 15 days FGMI shall accept any such cause or action or proceeding upon tender by the state.

Environmental and hazardous substance risks and liabilities may survive FGMI's use of the road.

FGMI shall require that all indemnities obtained from all contractors and subcontractors of FGMI be extended to include the state as an additional named indemnitee.

Insurance: The insurance necessary to protect the state's interest will be determined, in consultation with the Division of Risk Management, prior to the Final Decision.

H. Fees

Right-of-way on state land: The fee for a private non-exclusive right-of-way is set by 11 AAC 050.010(e)(11)(A) as "an annual fee of \$100 per acre, but not less than \$200." This fee will apply to the right-of-way width on state owned and managed land, and lands where the DMLW is authorizing construction, use and maintenance of RS 2477 or Omnibus Act road rights-of-way under a land use permit. This fee is calculated to be \$ 3870 annually based on 38.7 acres. This fee does not apply to School Trust Land.

Right-of-way on School Trust Land: The right-of-way across School Trust Land will be valued the same as on MHT land. FGMI will be required to obtain an appraisal to determine the full, fair market value at the highest and best use of the School Trust land. This will be a one time fee for the use of School Trust land. This is consistent with DNR Department Order 143. The School Trust Land litigants will review the Proposed Decision during the public notice comment period.

Material Pricing: The applicant will purchase any material that is removed from state land during road construction. The sand, gravel, and soft rock price is \$ 1.10 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.00 if the amount is over 2500 cubic yards. The common rock price is \$ 1.50 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.40 if the amount is over 2500 cubic yards. The applicant will be required to submit an accounting of the material removed from state land and payment for the material by a date to be specified in the early entry authorization/land use permit. This does not apply where the RS 2477 or Omnibus Act road is on land owned by a third party.

I. Right-of-way Term

The proposed term for the private non-exclusive right-of-way is 10 years. The Director of the DMLW may extend the right-of-way authorization if the road is required for the development of additional mineral resources.

J. Early Entry Authorization/Private Non-exclusive Right-of-way

Once a positive Final Decision is rendered, the DMLW would issue FGMI a land use permit for construction on the right-of-way. Upon approval of the as-built survey and appraisal, the DMLW would issue FGMI the private non-exclusive right-of-way. The land use permit and right-of-way would include the proposed special stipulations listed in Attachment 6.

XI. Proposed Decision

The Division of Mining, Land and Water proposes that FGMI's request to use the North Pedro alternative should proceed to public notice. The proposed road will provide the greatest economic benefit to the state for this land because:

- The access improvements facilitate the development of the surrounding state land for mineral development and for potential residential or commercial uses.

- The existing access will be improved and new access will be created by the construction of a high quality road through the area.

/SIGNED/
Chris Milles, Adjudicator

July 14, 2000
Date

Attachments

- Attachment 1: Vicinity Map
- Attachment 2: North Pedro Dome Alternative
- Attachment 3: Land Status Map
- Attachment 4: Alternative Map
- Attachment 5: Use and Maintenance Agreement
- Attachment 6: Proposed Special Stipulations